IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6720 OF 2005

Shri Kamlesh Ashok Kamble ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri A.H. H.Ponda for the Applicant.
Ms S.D. Shinde, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 21, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicant and the learned A.P.P. for the State. The Applicant is an accused in a case registered for offence under section 8(c), 20 and 29 of the Narcotic Drugs and Psycotropic Substance Act, 1985. The case of the prosecution is that one Valmiki Sitaram Pawar was travelling alongwith the Applicant in an air-conditioned taxi from Mumbai to Lonavala and on the way, police accosted the said Valmiki Sitaram Pawar and the Applicant. The case of the prosecution is that the said Valmiki was found in possession of 36 capsules which were totally weighing 28 grams and having opium in it. The Application for bail made by the Applicant has been rejected by the learned Additional District Judge, Alibag by the order dated 01st October, 2005. In paragraph No.5 of his order, the learned Judge held that the restrictions under

section 37(1)(d) of the said Act of 1985 would obviously be not applicable.

2. The case of the prosecution is that it is the co-accused Valmiki who was travelling with the Applicant was found in the possession of contraband weighing 28 gms. It is not in dispute that the weight includes the weight of the 36 capsules. As held by the learned Sessions Judge, constraint under section 37 will not apply. As the contraband was not found in possession of the Applicant and as there are no criminal antecedents against the Applicant, he is entitled to be enlarged on bail. The Applicant is in custody from 09th September, 2005.

4. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.II 66 of 2005 registered with Kalamboli Police Station, District Raigad,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that

the Applicant will attend the concerned Police Station once in a week till filing of the chargesheet and will co-operate for investigation.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE